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EXAMINER

LELE, TANMAY S

ART UNIT

PAPER NUMBER

2684

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/407,149

Applicant(s)

HENDERSON, P. MICHAEL

Examiner

Tanmay S Lele

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-19 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 5 June 2003 have been fully considered but they are not persuasive.

2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "a base unit would not transmit on more than one radio frequency chose by a user, unlike Applicant's claimed invention which allows for transmissions one more than one pre-selected radio frequency") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claims 1 –7, 9 – 19, and 21 – 24, Applicant attempts to overcome the rejection by stating, "a base unit would not transmit on more than one radio frequency chose by a user, unlike Applicant's claimed invention which allows for transmissions one more than one pre-selected radio frequency." Note that as claimed and rejected in the previous Office Action (paper number 15, page 3) the claim reads, "...at least one frequency..." and hence, as cited, it is believed Qureshey reads on the claimed as written. Hence Examiner is not persuaded by Applicant's argument that the references do not teach or recite the claimed.

3. In response to applicant's argument that "the FM tuner is likely to pick up the audio information transmitted over the chosen radio and not standard FM information that would normally be heard over a FM radio," the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references.

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Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Regarding claims 1 – 24, Applicant attempts to overcome the rejection by stating, “Accordingly, if the base unit transmits FM radio broadcast information obtained from a FM tuner 242 over a FM channel chosen by a user, the FM tuner is likely to pick up the audio information transmitted over the chosen radio and not standard FM information that would normally be heard over a FM radio,” and further, “there is no suggestion or motivation to make the proposed modification since, ‘the purposed modification would render the prior art invention being modified unsatisfactory for its indented purpose.’ ” Note that normal FM broadcasts from radio towers (commercial FM radio stations) generally transmit their carrier waves on the order of thousands of watts to achieve their desired coverage. These frequencies are licensed by the Federal Communications Commission (under Section 301 of the Communications Act, 47 U.S.C. §301) and allow commercial radio stations to legally use spectrum for the purposes of broadcasting over a large area. Hence, co-channel (same channel) interference would be an issue if the base unit were set to transmit on a carrier frequency that was already licensed to a commercial broadcast radio station (note that 902 is a standard FM radio, as per page 12, lines 14 – 15; note further that 904 is low power, as per page 12, lines 14 – 17). Co-channel interference has many adverse effects on reception, as known in the art, among those, decreased signal to noise ratio. Signal to noise ratio ultimately determines whether a signal can be demodulated (and the quality of the demodulated signal). Therefore, to ensure the user of Quershey’s apparatus proper operation, selection of a station carrier frequency not normally present would become obvious, thus preventing co-channel interference with the various different commercial broadcast

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frequencies present in different homes. This modification would only enhance the performance of Qureshey's apparatus as it would eliminate any co-channel interference via the selection frequency by the user and thus is not seen to be at all outside the bounds of invention, as Applicant argues. Note further that Applicant is stating another embodiment not related to the present claims (pages 12 – 13 lines 31 – 5 which deals with remote accessing as per Figure 10) and hence was not cited by Examiner. Hence, Examiner is not persuaded by Applicant's arguments that the references, for the motivation cited, do not teach or recite the claimed and further that the motivation would modify the references unsatisfactorily.

Regarding claims 5, 7, 12, and 19, as Applicant states the same arguments, please refer to the above (note that, as stated in the previous Office Action, paper number 15, pages 7 – 9 the cited references were not introduced to cure the cited deficiencies and not those the Applicant states on page 10 – 11 of paper 16).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 – 3, 6, 9, 10, 11, 13, 17, 18, 21, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Qureshey et al. (Qureshey, World Intellectual Property Organization, WO 99/38266).

Regarding claim 1, Qureshey teaches of a method for receiving digital information and

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transmitting the information in a localized area, comprising the steps of: receiving an audio communication as digital information from a remote source via the Internet (as seen in Figure 9 and detailed on page 2, lines 24 – 30 and page 12, lines 3 – 20); converting the digital information to analog information (as seen in Figure 9 and detailed on page 6, lines 19 – 24 and page 12, lines 3 – 20); and receiving the broadcast information in the localized area on a radio frequency receiver tuned to at least one frequency to permit listening to the audio communication (as seen in Figure 9 and detailed on page 12, lines 3 – 20).

Qureshey further teaches of broadcasting the analog information at low power in a localized area (as seen in Figure 9 and detailed on page 12, lines 3 – 20) but does not specifically state in at least one pre-selected radio frequency chosen by a user.

It would have been obvious to one skilled in the art at the time of invention to have included into Qureshey's personal intelligent radio, means for the user to select the transmission frequency for the purposes of avoiding (and thus preventing) interference with the different broadcast frequencies present in different homes.

Regarding claim 2, Qureshey teaches all the claimed limitations as recited in claim 1. Qureshey further teaches that wherein the step of receiving digital information comprises receiving information through a means selected from the group consisting of digital subscriber line transmission, telephone line transmission, cable transmission, and satellite transmission (as seen in Figures 9 and 2 and detailed on page 4, lines 15 – 31 and page 5, lines 25 – 27).

Regarding claim 3, Qureshey teaches all the claimed limitations as recited in claim 1. Qureshey further teaches that wherein the step of broadcasting comprises broadcasting in a radio frequency modulated waveband in the range[s] of [from] about 88 MHz to about 108 MHz (as

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seen in Figure 9 and detailed on page 12, lines 14 – 17) and an amplitude modulated waveband in the range of from about 540 kHz to about 1.6 MHz (as seen in Figure 9 and detailed on page 12, lines 14 – 17).

Regarding claim 4, Qureshey teaches all the claimed limitations as recited in claim 1. Qureshey does not explicitly show using a transmit power of 100 mW (though does state “low power,” on page 12, line 14). The utilization of such a power level in localized AM or FM transmission systems is a matter of system preference and is very well known in the art (as specified by the FCC in Part 15, sections 15.219, 15.221, and 15.239 in this case), thus the Examiner takes “Official Notice” as such. Therefore it would have been obvious to one skilled in the art, at the time of invention, to combine Qureshey with the specified transmission power limit in order for the broadcast to be localized (and in accordance with FCC guidelines).

Regarding claim 6, Qureshey teaches all the claimed limitations as recited in claim 1. Qureshey further teaches of wherein the step of broadcasting comprises broadcasting information in multiple frequencies (page 12, lines 11 –17).

Regarding claim 9, Qureshey teaches all the claimed limitations as recited in claim 1. Qureshey further teaches of wherein the step of receiving [of] digital information comprises receiving music as digital information (page 2, lines 16 – 18).

Regarding claim 10, Qureshey teaches all the claimed limitations as recited in claim 1. Qureshey further teaches of wherein the step of receiving [of] digital information comprises receiving radio program content as digital information (page 9, lines 20 – 24).

Regarding claim 11, Qureshey teaches of an apparatus for receiving information and broadcasting the information in a localized area, the apparatus comprising: means for receiving

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digital information from a remote source via the Internet (as seen in Figure 9 and detailed on page 2, lines 24 – 30 and page 12, lines 3 – 20); means for converting the digital information to analog information (as seen in Figure 9 and detailed on page 6, lines 19 – 24 and page 12, lines 3 – 20).

Qureshey further teaches of broadcasting the analog information at low power in a localized area (as seen in Figure 9 and detailed on page 12, lines 3 – 20) but does not specifically state in at least one pre-selected radio frequency chosen by a user.

It would have been obvious to one skilled in the art at the time of invention to have included into Qureshey's personal intelligent radio, means for the user to select the transmission frequency for the purposes of avoiding (and thus preventing) interference with the different broadcast frequencies present in different homes or locations.

Regarding claim 13, Qureshey teaches all the claimed limitations as recited in claim 11. Qureshey further teaches of further comprising means for displaying user readable information (Figures 3A – 3E and page 5, lines 9 – 17 and starting page 7, line 19 and ending page 8, line 25).

Regarding claim 17, Qureshey teaches of a method for receiving digital information and transmitting the information in a localized area, the method comprising the steps of: receiving digital information from a remote source via the Internet (as seen in Figure 9 and detailed on page 2, lines 24 – 30 and page 12, lines 3 – 20); converting the digital information to analog information (as seen in Figure 9 and detailed on page 6, lines 19 – 24 and page 12, lines 3 – 20).

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Qureshey further teaches of broadcasting the analog information at low power in a localized area (as seen in Figure 9 and detailed on page 12, lines 3 – 20) but does not specifically state in at least one pre-selected radio frequency chosen by a user.

It would have been obvious to one skilled in the art at the time of invention to have included into Qureshey's personal intelligent radio, means for the user to select the transmission frequency for the purposes of avoiding (and thus preventing) interference with the different broadcast frequencies present in different homes.

Regarding claim 18, Qureshey teaches all the claimed limitations as recited in claim 17. Qureshey further teaches of further comprising the step of storing received digital information before converting the digital information to analog information (page 9, lines 7 – 14 and page 5, lines 21 – 24).

Regarding claim 21, Qureshey teaches all the claimed limitations as recited in claim 17. Qureshey further teaches of further comprising the step of: broadcasting the analog information in at least one pre-selected amplitude modulated radio frequency (as seen in Figure 9 and detailed on page 12, lines 3 – 20).

Regarding claim 22, Qureshey teaches all the claimed limitations as recited in claim 1. Qureshey further teaches of wherein the user tunes the radio frequency receiver to the pre-selected radio frequency (as seen in Figure 9 and detailed on page 12, lines 3 – 20).

Regarding claim 23, Qureshey teaches all the claimed limitations as recited in claim 1. Qureshey further teaches of wherein a different user tunes the radio frequency receiver to the pre-selected radio frequency (as seen in Figure 9 and detailed on page 12, lines 3 – 20).

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6. Claims 5, 7, 12, 19, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Qureshey et al. (Qureshey, World Intellectual Property Organization, WO 99/38266) as applied to claim 1 above, and further in view of Lang (Lang, US Patent No. 5,737,692).

Regarding claim 5, Qureshey teaches all the claimed limitations as recited in claim 1. Qureshey does not specifically teach of wherein the broadcasting of the analog information is initiated at a predetermined time chosen by the user and in said at least one predetermined frequency chosen by the user (though note provisions are made for an alarm clock, starting page 7 line 25 and ending page 8, line 2).

In a related art dealing with alarm clock circuitry, Lang teaches of wherein the broadcasting of the analog information is initiated at a predetermined time chosen by the user and in said at least one predetermined frequency chosen by the user (column 4, lines 43 – 58).

It would have been obvious to one skilled in the art at the time of invention to have included into Qureshey's intelligent radio, Lang's alarm clock circuitry, for the purposes of being alarmed at a specific time with music.

Regarding claim 7, Qureshey teaches all the claimed limitations as recited in claim 1. Qureshey does not specifically teach of wherein the step of broadcasting comprises broadcasting information in a first frequency for a first time period, and broadcasting information in a second frequency for a second time period (though note provisions are made for an alarm clock, starting page 7 line 25 and ending page 8, line 2).

In a related art dealing with alarm clock circuitry, Lang teaches of wherein the step of broadcasting comprises broadcasting information in a first frequency for a first time period, and broadcasting information in a second frequency for a second time period (column 4, lines 43 –

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58 and column 2, lines 36 – 46; note provisions are made for an alarm clock, starting page 7 line 25 and ending page 8, line 2).

It would have been obvious to one skilled in the art at the time of invention to have included into Qureshey's intelligent radio, Lang's alarm clock circuitry, for the purposes of being alarmed at a specific time with music.

Regarding claim 12, Qureshey teaches all the claimed limitations as recited in claim 11. Qureshey further teaches of means for programming the means for broadcasting (page 9, lines 20 – 33 and note provisions are made for an alarm clock, starting page 7 line 25 and ending page 8, line 2).

Qureshey does not specifically teach of the means for programming comprising a program for setting a time to activate the means for broadcasting.

In a related art dealing with alarm clock circuitry, Lang teaches the means for programming comprising a program for setting a time to activate the means for broadcasting (column 4, lines 43 – 58 and column 2, lines 36 – 46; note provisions are made for an alarm clock, starting page 7, line 25 and ending page 8, line 2).

It would have been obvious to one skilled in the art at the time of invention to have included into Qureshey's intelligent radio, Lang's alarm clock circuitry, for the purposes of being alarmed at a specific time with music.

Regarding claim 19, Qureshey teaches all the claimed limitations as recited in claim 18. Qureshey further teaches of comprising the steps of converting the stored digital information to analog information (page 6, lines 19 – 24) and broadcasting the analog information in a localized area (as seen in Figure 9, and on page 12 lines 3 – 20).

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Qureshey does not specifically state of at a predetermined time (note provisions are made for an alarm clock, starting page 7, line 25 and ending page 8, line 2).

In a related art dealing with alarm clock circuitry, Lang teaches of at a predetermined time (column 4, lines 43 – 58 and column 2, lines 36 – 46; note provisions are made for an alarm clock, starting page 7, line 25 and ending page 8, line 2).

It would have been obvious to one skilled in the art at the time of invention to have included into Qureshey's intelligent radio, Lang's alarm clock circuitry, for the purposes of being alarmed at a specific time with music.

Regarding claim 24, Qureshey in view of Lang, teach all the claimed limitations as recited in claim 12. Both Qureshey and Lang further teach of wherein the program prompts the user to specify the time to activate the means for broadcasting (Qureshey: page 8, lines 1 – 2 and Lang, column 2, lines 36 – 45 and column 4, lines 43 – 58).

7. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Qureshey et al. (Qureshey, World Intellectual Property Organization, WO 99/38266) as applied to claim 11 above, and further in view of Dao et al. (Dao, US Patent No 5,915,207).

Regarding claim Qureshey teaches all the claimed limitations as recited in claim 11. Qureshey further teaches of the card receiving transmissions from the Internet and converting the transmissions to analog information for broadcasting (as see in Figure 9 and detailed on page 12, lines 3 – 20).

Qureshey does not specifically teach of the means for receiving and means for converting are contained on a PCI card.

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In an analogous art, Dao teaches of the means for receiving and means for converting are contained on a PCI card (column 5, lines 28 – 50; note Dao teaches these functions can be performed on a PCI card).

It would have been obvious to one skilled in the art at the time of invention to have included Qureshey's receiving and broadcasting means onto Dao's PCI card, for the purposes of conserving space, as taught by Dao.

Regarding claim 15, Qureshey teaches all of the claimed limitations as recited in claim 1. Qureshey further teaches of means for receiving, means for converting and means for broadcasting (as seen in Figure 9 and page 12, lines 3 – 20).

Qureshey does not specifically teach of contained on a PCI card.

In an analogous art, Dao teaches of contained on a PCI card (column 5, lines 28 – 50; note Dao teaches these functions can be performed on a PCI card).

It would have been obvious to one skilled in the art at the time of invention to have included Qureshey's receiving and broadcasting means onto Dao's PCI card, for the purposes of conserving space, as taught by Dao.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Qureshey et al. (Qureshey, World Intellectual Property Organization, WO 99/38266) as applied to claim 11 above, and further in view of Bolas et al. (Bolas, US Patent 6,389,463).

Regarding claim 16, Qureshey teaches all the claimed limitations as recited in claim 11. Qureshey further teaches of means for storing received digital information (page 9, lines 7 – 14 and page 5, lines 21 – 24).

Qureshey does not specifically state broadcasting at a later time.

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In a related art dealing with an Internet radio receiver, Bolas teaches of broadcasting at a later time (column 2, lines 13 – 23 and column 3, lines 28 – 65).

It would have been obvious to one skilled in the art at the time of invention to have included into Qureshey's intelligent radio, Bolas delayed broadcast, for the purposes of listening to a program at one's convenience, as taught by Bolas.

Citation of Pertinent Prior Art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Inventor/Author	Publication	Number	Disclosure
Israni et al.	US Patent	6,438,561	Method and System for suing Real-Time Traffic Broadcasts with Navigation Systems
Bolas et al.	US Patent	6,389,463	Internet Radio Receiver Having a Rotary Knob for Selecting Audio Content Provider Designations and Negotiating Internet Access to URLs Associated with the Designations
Kawamoto et al.	US Patent	6,341,133	Information Providing Apparatus and Portable Communication Terminal
Boys	US Patent	6,314,094	Mobile Wireless Internet Portable Radio
Hudecek et al.	US Patent	6,289,207	Computerized Radio Receiver
Kirlyay	US Patent	6,249,810	Method and System for Implementing an Internet Radio Device for Receiving and/or Transmitting Media Information
Lumelsky	US Patent	6,246,672	Singlecast Interactive Radio System
Tamir et al.	US Patent	6,223,060	Voice Message Recorder and Limited Range Transmitter for Use with Telephones
Latshaw et al.	US Patent	6,161,092	Preventing Information using Pre-stored Speech
Rothblatt	US Patent	6,105,060	System for Providing Global Portable Internet Access Using Low Earth Orbit Satellite and Satellite Direct Radio Broadcast System

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Farris et al.	US Patent	6,029,064	Mobile Audio Program Selection System Using Public Switched Telephone Network
Dao et al.	US Patent	5,915,207	Mobile and Wireless Information Dissemination Architecture and Protocols
Rosenquist	US Patent	5,864,305	Traffic Information System
Olaniyan	US Patent	5,852,610	Remote Broadcast Listening System Which Receives Radio/Broadcast Signals Using Receivers Which Includes Antennas and Interconnects Receivers to Customer Telephones/Interface Means
Lang	US Patent	5,737,692	Clock Radio System with Remote Alert
Taylor	US Patent	4,233,685	Radio for Receiving and Reproducing Information Broadcast in the Intermediate Frequency
Qureshey et al.	WIPO	WO 99/38266	Intelligent Radio

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tanmay S Lele whose telephone number is (703) 305-3462. The examiner can normally be reached on 9 - 6:30 PM Monday – Thursdays and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay A. Maung can be reached on (703) 308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.


Tanmay S Lele
Examiner
Art Unit 2684

tsl
July 29, 2003


NAY MAUNG
PRIMARY EXAMINER